



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2013-0145; Notice 1]

KBC America, Inc., Receipt of Petition for Decision of  
Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration (NHTSA),  
Department of Transportation (DOT)

**ACTION:** Receipt of Petition

**SUMMARY:** KBC America, Inc. "KBCA" has determined that certain motorcycle helmets manufactured by KBC Corporation for Harley-Davidson as Harley-Davidson brand helmets do not fully comply with paragraph S4 of Federal Motor Vehicle Safety Standard (FMVSS) No. 218, *Motorcycle Helmets*. KBCA has filed an appropriate report dated December 12, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

**DATES:** The closing date for comments on the petition is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- Mail: Send comments by mail addressed to: U.S.

Department of Transportation, Docket Operations, M-30,

West Building Ground Floor, Room W12-140, 1200 New  
Jersey Avenue, SE, Washington, DC 20590.

- Hand Deliver: Deliver comments by hand to: U.S.  
Department of Transportation, Docket Operations, M-30,  
West Building Ground Floor, Room W12-140, 1200 New  
Jersey Avenue, SE, Washington, DC 20590. The Docket  
Section is open on weekdays from 10 am to 5 pm except  
Federal Holidays.
- Electronically: Submit comments electronically by:  
logging onto the Federal Docket Management System  
(FDMS) website at <http://www.regulations.gov/>. Follow  
the online instructions for submitting comments.  
Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no  
greater than 15 pages in length, although there is no limit to  
the length of necessary attachments to the comments. If comments  
are submitted in hard copy form, please ensure that two copies  
are provided. If you wish to receive confirmation that your  
comments were received, please enclose a stamped, self-addressed  
postcard with the comments. Note that all comments received will  
be posted without change to <http://www.regulations.gov>,  
including any personal information provided.

Documents submitted to a docket may be viewed by anyone at  
the address and times given above. The documents may also be

viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the Federal Register pursuant to the authority indicated below.

**SUPPLEMENTARY INFORMATION:**

**I. KBCA's Petition:** Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), KBCA submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of KBCA's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

**II. Helmets Involved:** Affected are approximately 566 Jet model helmets that KBC Corporation manufactured in December 2012 for Harley Davidson, who in turn marketed these helmets under its own brand by the model name "Black Label Retro ¾."

**III. Noncompliance:** KBCA explains that the subject helmets fail to fully comply with the requirements of S5.6.1(e) of FMVSS No. 218 that was in effect on the date of manufacture of these helmets because the goggle strap holders on the rear of the helmets obscure the DOT certification label from view.

**IV. Rule Text:** Paragraph S5.6.1(e) of FMVSS No. 218 requires in pertinent part:

S5.6.1 Each helmet shall be labeled permanently and legibly, in a manner such that the label(s) can be read easily without removing padding or any other permanent part, with the following: ...

(e) The symbol DOT, constituting the manufacturer's certification that the helmet conforms to the applicable Federal motor vehicle safety standards. This symbol shall appear on the outer surface, in a color that contrasts with the background, in letters at least 3/8 inch (1 cm) high, centered laterally with the horizontal centerline of the symbol located a minimum of 1 1/8 inches (2.9 cm) and a maximum of 1 3/8 inches (3.5 cm) from the bottom edge of the posterior portion of the helmet.

**V. Summary of KBCA's Analyses:** KBCA stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. KBCA believes that the subject helmets comply with the performance requirements of FMVSS No. 218 and that

neither the presence of the strap holder nor the fact that it can obscure the DOT label affects the helmet's ability to protect the wearer in the event of a crash.

2. KBCA states that other than the subject noncompliance the DOT label on the subject helmets comply with the requirements of FMVSS No. 218.
3. KBCA also believes that while the DOT label is not visible when the strap holder is fastened, a user can easily view the label by unfastening the strap holder to confirm that the helmet has been certified and thus complies with the requirements set forth in FMVSS No. 218.
4. KBCA further believes that if their company were required to do a recall of the subject helmets, it would be likely that a very low percentage of helmets would be returned, if any, and that in doing so would leave the owners without a helmet while the subject helmets are retrofitted with a new label.
5. KBCA expressed its belief that in similar situations NHTSA has granted petitions for inconsequential noncompliance regarding other products that have incorrect or missing label information required by other FMVSS's.

KBCA has additionally informed NHTSA that it no longer manufactures the subject helmets.

In summation, KBCA believes that the described noncompliance of the subject helmets is inconsequential to motor vehicle safety, and that its petition, to exempt KBCA from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject helmets that KBCA no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant helmets under their control after KBCA notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at  
49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe, Director  
Office of Vehicle Safety Compliance

**Billing Code:** 4910-59-P

[FR Doc. 2014-13184 Filed 06/05/2014 at 8:45 am; Publication Date: 06/06/2014]